

(1) If approved, EPA will also notify the refiner of the date that full compliance with the standards specified at § 80.195 must be achieved or what interim sulfur levels or schedules apply, if any.

(2) If disapproved, beginning January 1, 2008, the refinery is subject to the requirements in § 80.195. Refiners who receive an extension for the 2008 averaging period shall meet the standards in § 80.195 beginning on January 1, 2009, unless EPA grants an extension of the hardship relief for an additional year. If such an additional extension is granted, the refiner shall meet the standards in § 80.195 on January 1, 2010.

(d) Refiners who receive a hardship extension may be required to meet more stringent standards than those which apply to them during 2007, and/or could be required to offset excess sulfur levels. EPA may impose reasonable conditions on an extension, such as requiring segregation of the small refiner's gasoline or requiring the gasoline to be sold for use in older vehicles only.

§ 80.270 Can a refiner seek temporary relief from the requirements of this subpart?

(a) EPA may permit a refiner to produce and distribute gasoline which does not meet the requirements of this subpart if the refiner demonstrates that:

(1) Unusual circumstances exist that impose extreme hardship and significantly affect ability to comply by the applicable date; and

(2) It has made best efforts to comply with the requirements of this subpart (including making efforts to obtain credits and/or allotments).

(b) Applications must be submitted to EPA by September 1, 2000. Relief may be granted from some or all of the requirements of this subpart, at EPA's discretion; however, EPA reserves the right to deny applications for appropriate reasons, including unacceptable environmental impact. Approval to distribute gasoline which does not meet the requirements of this subpart may be granted for such time period as EPA determines is appropriate, but shall not extend beyond January 1, 2008.

(c)(1) Applications must include a plan demonstrating how the refiner

will comply with the requirements of this subpart as expeditiously as possible. The plan shall include a showing that contracts are or will be in place for engineering and construction of desulfurization equipment, a plan for applying for and obtaining any permits necessary for construction, a description of plans to obtain necessary capital, and a detailed estimate of when the requirements of this subpart will be met.

(2) Applications must include a detailed description of the refinery configuration and operations, including, at a minimum, the following information:

(i) The portion of gasoline production that is produced using an FCC unit;

(ii) The refinery's hydrotreating capacity;

(iii) The refinery's total reformer unit throughput capacity;

(iv) The refinery's total crude capacity;

(v) Total crude capacity of any other refineries owned by the same entity;

(vi) Total volume of gasoline production at the refinery;

(vii) Total volume of other refinery products; and

(viii) Geographic location(s) in which gasoline will be sold.

(3) Applications must include, at a minimum, the following information:

(i) Detailed description of efforts to obtain capital for refinery investments;

(ii) Bond rating of entity that owns the refinery; and

(iii) Estimated capital investment needed to comply with the requirements of this subpart by the applicable date.

(4) Applicants must also provide any other relevant information requested by EPA.

(d) EPA may impose any reasonable conditions on waivers granted under this section.

ALLOTMENT TRADING PROGRAM

§ 80.271 How can a small refiner obtain an adjustment of its 2004–2007 per-gallon cap standard?

(a) EPA may in its discretion adjust the small refiner per-gallon cap sulfur standard established for a refinery under § 80.240(a) (the established small refiner per-gallon standard) if the refiner demonstrates that the burden of

complying with the established small refiner per-gallon standard would effectively prevent the refiner from participating in the small refiner relief provided in § 80.240. No refiner will be eligible for an adjustment of its established per-gallon standard above 450 ppm. The refinery annual average sulfur standards in § 80.240(a) are not affected by this section.

(b) A refiner wishing to apply for such an adjustment of its established small refiner per-gallon sulfur standard under § 80.240(a) must send a letter to Gasoline Sulfur Program, U.S. EPA, Office of Transportation and Air Quality, 2000 Traverwood Dr., Ann Arbor, MI 48105 no later than January 1, 2003. Such application must include the following information:

(1) A detailed description of the nature of the difficulty that the per-gallon cap creates;

(2) The refiner's proposed adjusted per-gallon cap standard and the proposed duration for the adjustment, including an explanation of how a lower per-gallon cap standard or shorter duration would not address the hardship;

(3) The refiner's expected actual annual average sulfur level (i.e., prior to the use of any credits or allotments) for each year that the adjustment would be in effect;

(4) The refiner's estimate of the number of gallons of gasoline it produces that will exceed the established small refiner per-gallon standard under § 80.240(a) for each year that the adjusted per-gallon cap would apply; and

(5) The number of sulfur credits or allotments that the refiner estimates will be required under paragraph (d) of this section for each year that the adjusted per-gallon cap would apply and a plan for obtaining this number of credits or allotments.

(6) Other relevant information that EPA requests.

(c) EPA will evaluate each application for an adjusted per-gallon cap sulfur standard on a case-by-case basis. EPA may impose any reasonable conditions on adjustments granted under this section. EPA may in its discretion set forth the duration of the adjusted per-gallon cap sulfur standard but in no case shall it extend beyond December 31, 2007.

(d)(1) A small refiner with an adjusted per-gallon sulfur cap standard under paragraph (a) of this section must obtain and use sulfur credits or allotments to offset the amount that the adjusted standard exceeds the established small refiner per-gallon standard under § 80.240(a). The number of sulfur credits or allotments needed for each year that the adjusted per-gallon cap would apply is calculated on a per-batch basis according to paragraph (d)(2) of this section and summed over the averaging period.

(2) The formula for determining the number of sulfur credits or allotments that such a small refiner is required to use for any batch of gasoline exceeding the established small refiner per-gallon standard under § 80.240(a) is as follows:

$$CR_b = V_b \times (S_b - S_c)$$

Where:

CR_b = number of sulfur allotments or sulfur credits needed for the gasoline batch (ppm-gallons)

V_b = Volume of the gasoline batch (gallons)

S_b = Sulfur level of the gasoline batch (ppm)

S_c = Small refiner per-gallon cap standard established for that refinery under § 80.240(a), in ppm.

(3) Sulfur credits or allotments used when a small refiner exceeds an established per-gallon cap sulfur standard under § 80.240(a) must be separate from and in addition to credits or allotments used for any other purposes provided under § 80.275 or § 80.315.

(e) The approving official for an adjustment under this section is the Director of the Office of Transportation and Air Quality in the EPA Office of Air and Radiation.

[67 FR 40182, June 12, 2002]

§ 80.275 How are allotments generated and used?

(a) *Generation of allotments and credits in 2003.* (1) During 2003 only, any domestic or foreign refiner who produces gasoline from crude oil may have the option to generate credits in accordance with the provisions of § 80.305 or generate allotments and credits under paragraph (a)(2) of this section.

(2) If the average sulfur content of the gasoline produced at a refinery is less than the refinery's baseline as determined under § 80.295 and is 60 ppm or